

Request for Continued Examination (RCE) Transmittal

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	10/775420
Filing Date	Feb. 10, 2005
First Named Inventor	Allerding
Art Unit	3654
Examiner Name	T. J. Brahan
Attorney Docket Number	H01.2-11473

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.

Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____

ii. ☐ Other _____

b. ☒ Enclosed

i. ☒ Amendment/Reply

iii. ☐ Information Disclosure Statement (IDS)

ii. ☐ Affidavit(s)/ Declaration(s)

iv. ☐ Other _____

2. Miscellaneous

a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

b. ☐ Other _____

3. Fees

The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments, to Deposit Account No. 22-0350. I have enclosed a duplicate copy of this sheet.

i. ☒ RCE fee required under 37 CFR 1.17(e)

ii. ☒ Extension of time fee (37 CFR 1.136 and 1.17)


iii. ☐ Other _____

b. ☐ Check in the amount of \$ _____ enclosed

c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature		Date	7/16/2007
Name (Print/Type)	Benjamin E. Carlsen	Registration No.	52697

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Signature			
Name (Print/Type)	Julie Emerson	Date	7/16/07

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Allerding, Oestmann and Duewel
Application No.:	10/775420
Filed:	February 10, 2004
For:	A FORK-LIFT TRUCK
Examiner:	Thomas J. Brahan
Group Art Unit:	3654

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Docket No.: H01.2B-11473-US01

RCE AMENDMENT

This Amendment is in response to Notice of Non-Compliant Amendment dated **June 18, 2007** and as a follow up to an Office Action dated February 15, 2007.

If an extension of time is required to make this response timely and no separate petition is enclosed, Applicants hereby petition for an extension of time sufficient to make the response timely. In the event that this response requires the payment of government fees and payment is not enclosed, please charge Deposit Account No. 22-0350.

Please amend the application as follows:

The Amendments to the Claims section begins on page 2.

The Remarks section begins on page 4.

Amendments To The Claims:

Claim 1 *(Currently Amended)* A fork-lift truck comprising:

 a mast,

 a load carrying fork,

 a pair of actuation drives, one being a lifting and lowering drive, and one being an inclination drive,

 an analog sensor, and

 a control device, wherein:

 the load-carrying fork is engaged to and supported by the mast and is adjustable in height by the lifting and lowering drive,

 the inclined position of the load-carrying fork is adjustable relative to a horizontal axis by the inclination drive, and

 the control device is in electrical communication with and regulates the actuation of the lifting and lowering drive and is in separate electrical communication with and separately regulates the inclination drive,

 said regulation comprises utilizing the analog sensor to detect the inclined position of the load-carrying fork relative to the horizontal axis and correspondingly emitting an inclination signal to the control device, the control device in turn processes the inclination signal and induces a coordinated actuation of both ~~at least one~~ of the actuation drives such that they cause the load-carrying fork to be automatically moved to a predetermined position.

Claim 2 *(Previously Presented)* The fork-lift truck of claim 1, characterized in that the control device induces the load-carrying fork to be automatically moved to a horizontal position.

Claim 3 *(Previously Presented)* The fork-lift truck as claimed in claim 1, characterized in that the control device induces the inclination drive to move the load-carrying fork colinear with the horizontal axis when the lifting and lowering drive are induced by the control device to be actuated.

Claim 4 *(Previously Presented)* The fork-lift truck as claimed in claim 1 further comprising an engine and an onboard computer, the engine controlling the speed of the fork-lift truck, the onboard computer in controlling communication with the engine such that it limits the traveling speed and cornering speed of the fork-lift truck in conformity with stability criteria, the inclination signal is also received by the onboard computer for a modification of the maximum traveling speed of the fork-lift truck in dependence on the inclination signal.

Claim 5 *(Previously Presented)* The fork-lift truck of claim 1, characterized in that the control device measures the inclined position of the load-carrying fork relative to the horizontal axis.

Claim 6 *(Previously Presented)* The fork-lift truck of claim 1, characterized in that the control device induces the load-carrying fork to be automatically moved to a pre-determined height.

Remarks

This Amendment is in response to the Office Action dated **February 15, 2007**.

The Office Action: **1)** rejected claims 1-6 under 35 USC §112 ¶ 2 for being indefinite, **2)** rejected claims 1-3 and 6 under 35 USC §102(b) as being anticipated by US 4,491,918 (hereinafter Yuki), **3)** rejected claim 4 under 35 USC §103(a) as being unpatentable over Yuki in view of US 5,947,516 (hereinafter Avitan), **4)** rejected claim 5 under 35 USC §103(a) as being unpatentable over Yuki in view of US 4,942,529 (hereinafter Ishikawa), and **5)** did not indicate if DE 32 11 509 A1 was considered. The following comments are presented in the same order as in the Office Action with section numbers corresponding to the above enumeration.

1. 35 USC § 112 ¶ 2 rejection of claims 1-6

The Office Action rejected claims 1-6 under 35 USC §112 ¶ 2 for being indefinite. Specifically the Office Action stated that coordinating one or more drives was indefinite because it is not possible to coordinate only one drive. The instant claims make clear that the coordination occurs between two drives. This amendment does not require a new search as it merely narrows the scope of the claims, does not introduce any unexamined matter, and does not raise any new issues of patentability.

2. 35 USC § 102(b) rejection of claims 1-3 and 6 under Yuki

The Office Action rejected claims 1-3 and 6 under 35 USC §102(b) as being anticipated by Yuki. The Office action stated that these claims **(a)** did not recite measuring the tilt of the fork relative to a horizontal axis, and **(b)** even if they did this is disclosed by Ishikawa.

The following explains why this is incorrect.

2(a). *The claims recite measuring the tilt of the forks relative to a horizontal axis*

The previous set of claims indicated that the drive inclines the position of the fork relative to the horizontal axis and that the actuation of this drive is regulated by an analog sensor which detects the inclined position of the fork. Instant claims more explicitly state that the analog sensor which detects the inclined position of the load-carrying fork makes the detection relative to the horizontal axis. Yuki does not disclose this limitation. This amendment does not require a new search as it merely narrows the scope of the claims, does not introduce any unexamined matter, and does not raise any new issues of patentability.

2(b). *Measuring the tilt of the forks relative to a horizontal axis is not disclosed by Ishikawa*

Ishikawa does not disclose measuring the tilt of a fork relative to a horizontal axis. Instead, Ishikawa discloses using a tilt sensor to directly measure the angle of the *mast* of a fork lift relative to a horizontal axis but not the angle of the *fork* relative to a horizontal axis. (Ishikawa, Col. 11 line 66- Col. 12 line 3). Ishikawa does not disclose a more precise measurement of the fork angle because Ishikawa is designed to regulate the center of gravity of the fork lift (Ishikawa, Col. 2 lines 23-24) and not to properly aim the forks. The center of gravity of a fork lift is dependent on the lateral tilt imposed on it by the combined yawing force of the fork, the load, and the mast together and is not aided by any objective measurement of the fork angle relative to a horizontal axis. (Ishikawa, Col. 5 lines 22-51). Applicant's device in contrast directly measures angle of the fork because that is essential to properly aiming the forks.

Directly measuring the angle of the forks relative to a horizontal axis as done in

the claims is more accurate than Ishikawa's indirect inference of a fork's tilt from the mast angle.

This is because measuring the mast angle will not provide accurate readings if the lift frame becomes deformed and changes the angle between the mast and the fork. (Specification, Page 2 lines 12-17). Because Ishikawa does not make the same measurement as the claims and because the difference in the measurements is significant, it is not correct to say that Ishikawa discloses the measuring device in applicant's claims.

3. 35 USC § 103(a) rejection of claim 4 under Yuki in view of Avitan

The Office Action rejected claim 4 under 35 USC §103(a) as being anticipated by Yuki in view of Avitan. As mentioned in section 2 of these remarks, Yuki does not disclose an analog sensor which compares the inclined position of the forks to a horizontal axis. Avitan also does not make such a disclosure. Because neither of the cited references whether viewed individually or in combination disclose all of the claimed limitations, the 35 USC §103(a) rejection was in error.

4. 35 USC § 103(a) rejection of claim 5 over Yuki in view of Ishikawa

The Office Action rejected claim 5 under 35 USC §103(a) as being anticipated by Yuki in view of Ishikawa. As mentioned in section 2 of these remarks, neither Yuki nor Ishikawa disclose an analog sensor which compares the inclined position of the load-carrying fork to a horizontal axis. Because neither of the cited references whether viewed individually or in combination disclose all of the claimed limitations, the 35 USC §103(a) rejection was in error.

5. German Reference

Applicant previously stated that reference DE 3211509 is discussed in the specification (at page 2), and provides the required statement of relevancy. Therefore, this reference should be considered. Notice to this effect would be appreciated.

Conclusion

Based on at least the foregoing remarks, Applicant respectfully submits this application is in condition for allowance. For at least these reasons, withdrawal of the rejections against Claims 1-6 is requested. Favorable consideration and prompt allowance of claims 1-7 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS



Date: July 16, 2007

By: /Benjamin Carlsen/
Benjamin E. Carlsen
Registration No.: 52,697

6640 Shady Oak Road, Suite 400
Eden Prairie, MN 55344
Telephone: (952) 563-3000
Facsimile: (952) 563-3001